IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

TUESDAY, THE 18TH SEPTEMBER 2007 / 27TH BHADRA 1929

WP(C).No. 12508 of 2006(L)

PETITIONER:

O.BABU, RESIDING AT OTTAKKAL VEEDU,
CHOKKAD GIRIJAN COLONY, CHOKKAD P.O.,
MALAPPURAM.

BY ADV. SRI.S.KRISHNAMOORTHY

RESPONDENTS:

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1. STATE OF KERALA, REP. BY ITS SECRETARY,
URBAN DEVELOPMENT DEPARTMENT,
GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. M.K.CHENTHAMARAKSHAN, KALATHIL VEEDU,
C.P.NO.505, KALLUMOOLA, MAMBATTUMOOLA,
NILAMBUR, MALAPPURAM.

3. THE DISTRICT COLLECTOR, MALAPPURAM.

4. THE SECRETARY,
CHOKKAD GRAMA PANCHAYAT, MALAPPURAM.

5. THE SECRETARY, KALKULAM GIRIJAN
SERVICE CO-OPERATIVE SOCIETY, REGN.NO.M. 114,
CHOKKAD GIRIJAN COLONY, NILAMBUR,
MALAPPURAM.

6. OMBUDSMAN REP. BY ITS REGISTRAR,
KUNNUKUZHI, VANCHIYOOR, THIRUVANANTHAPURAM.

R1 & R3 BY GOVT.PLEADER SRI.SHYSON P.MANGUZHA.
R4 BY ADV. SRI.N.UNNIKRISHNAN
R2 BY ADV.SRI.P.K.MOHAMED JAMEEL

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 18/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C. KURIAKOSE, J.

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W.P.(C)No.12508 OF 2006

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DATED THIS THE 18TH SEPTEMBER, 2007

J U D G M E N T

The petitioner who was the convener of a beneficiary committee which undertook the work of constructing a public road from Chokkad Girijan Colony to L.P.School ground is aggrieved by Ext.P2 order of the Ombudsman for Local Self Government Institutions wherein the Panchayat Secretary has been directed to recover 200 quintals of rice which had been entrusted with the petitioner as part of the remuneration for the road construction work, on the reason that the work has been completed only in part.

2. Heard Sri.S.Krishnamoorthy, learned counsel for the petitioner, Sri.N.Unnikrishnan, learned counsel for the 4th respondent and Sri.Shyson P.Manguzha, learned Government Pleader. I have gone through the pleadings raised by the parties.

3. It is stated by the Panchayat in paragraph 2 of its counter affidavit as follows:-

> "In regard to the contention in para.2, page 3, it is humbly submitted that the land belonging to Dakshayani, Shobana Periyangad, Kovala Makkan and Mathikaruvankund had been given to them by Kalkulam Girijan Society. District Collector is the Chairman of

> the Society. Panchayat had addressed letter to the District Collector for assigning this land for constructing public road. But no fruitful result was materalised."

It is thus clear that there is some merit in the case of the petitioner that it was on account of occupancy of portions of road area by these four persons that he was unable to complete execution of the work. The petitioner alone cannot be blamed at any rate for the delay which has been caused in executing the work.

4. The 3rd respondent is the District Collector who is also the Chairman of the 5th respondent-Society. It is discernible from the pleadings and the various materials placed on record that the four persons mentioned in para.2 of the counter affidavit of the Panchayat are presently in occupation of a portion of the land coming within the alignment of the proposed road. It is submitted that these four persons will have to surrender only portions of the land presently under their occupation which is on the basis of the allotment by the Collector under a certain welfare scheme. It is for respondents 4 and 5 to prevail upon these four persons and facilitate surrender of the required portions by them so as to pave way for completing execution of the work by the petitioner. The 3rd respondent-District Collector

himself is the Chairman of the 5th respondent-Society which was constituted with the objective of monitoring works like the present one. The 3rd respondent will also do everything that is possible at his end to ensure that the four persons also co-operate in the completion of the work by the petitioner. Needful will be done in the matter by respondents 3, 4 and 5 within four months of the petitioner placing before them a copy of this judgment. Considering the above directions, there will be a further direction that Exts.P2 and P4 will be kept in abeyance for a period of six months. In the meanwhile, if so advised, the petitioner can challenge Exts.P2 and P4 in accordance with law.

The Writ Petition is disposed of as above.

(PIUS C.KURIAKOSE, JUDGE)

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